



VIRGINIA CHILD SUPPORT GUIDELINE REVIEW PANEL: 2005

Senator Frederick M. Quayle, Chairman

Joseph S. Crane, DCSE representative & staff director

(804) 726-7431

[It is noted for the record that the 2005 Child Support Guideline Panel conducted a properly-announced public hearing on Tuesday, July 26, 2005, beginning at 7:00 p.m., in House Room C of the Virginia General Assembly building. Eleven citizens spoke before the Panel on a variety of Guideline and other child support and related issues. All public comments were recorded on audio tape, and any written submissions from speakers were distributed to all Panel members. As specified in the public meeting notice, the Panel met solely for the purpose of hearing from the public at large concerning issues of concern to them. No Panel deliberations were conducted and no minutes were prepared. Panel members in attendance included: Senator Frederick Quayle, Chairman; Delegate Michele McQuigg; Judge Anne Holton; Judge Wilford Taylor; Ms. Amy Atkinson; Mr. Joseph Crane; Lawrence Diehl, Esq; Ms. Deborah Parham; and Ms. Leslie Sorkhe.]

MEETING MINUTES

August 9, 2005 meeting

House Room C, General Assembly building

Richmond, Virginia

The following members were present: Senator Frederick Quayle; Delegate Michele McQuigg; Judge Wilford Taylor; Richard Byrd, Esq.; Mr. Joseph Crane; Lawrence Diehl, Esq.; Brian Hawkins (arriving 10:30am); Ms. Deborah Parham. Amy Atkinson participated via telephone, arriving 10:15 a.m.

The following members were absent: Delegate Clifford Athey; Delegate William Barlow; Judge Anne Holton; Mr. Robert Ingalls; Janipher Robinson, Esq.; and Ms. Leslie Sorkhe.

Guests present: None

The fourth working meeting of the 2005 Child Support Guideline Review Panel was held on Tuesday, August 9, 2005, beginning at 9:00 a.m. in House Room C of the General Assembly building in Richmond, Virginia.

Chairman Frederick Quayle called the meeting to order at 9:25 a.m., noting only seven members were present, thus lacking a quorum.

The chair requested review of the previous working meeting's (7/11/05) minutes, and noted that when an eighth member arrived, the minutes would be voted on.

The chair recognized Mr. Byrd, who made a detailed presentation of a complete Guideline Schedule that adjusts for inflation. Authorization for Mr. Byrd's presentation had been approved in the 7/11/05 Panel meeting. Mr. Byrd pointed out the entire table is faithful to the structure of Virginia's existing Guideline, adjusting only for the cumulative effects of inflation based on the U. S. Department of Commerce Consumer Price Index (CPI) updates since 1988.

Delegate McQuigg iterated concerns that the underlying assumptions in the Schedule now in the *Code of Virginia* (§ 20-108.2), mostly consisting of data from 1987 based on research adopted by a federal commission, should not be taken for granted as accurate, either then or now. She also expressed concern as to whether the economic assumptions undergirding such data might have changed since 1988, [when Virginia adopted the current Guideline based upon the 1987 data], and whether such changes might be accurately captured in CPI inflation figures.

Considerable debate ensued. Mr. Byrd, while conceding that no model, including Virginia's, is perfect given the multitudinous possible variations in family circumstances, cited seventeen years of implementation experience and comparisons with other states' experiences as evidence that Virginia's Guideline is in line with other states. Mr. Byrd also cited the JLARC *Cost of Raising Children* study and other research believed to substantiate that there is no single, definitive answer to Delegate McQuigg's concerns.

Delegate McQuigg clarified that she would like a chart somewhat based on the numbers on pages 4-14 – 4-17 of Laura Morgan's book *Child Support Guidelines: Interpretation and Application*, so there is some comparison to examine. Staff will essay to provide that before the next Panel meeting.

Chairman Quayle thanked Mr. Byrd for his presentation, and noted that the Panel will act on his proposal when a quorum is present, either today or in a subsequent meeting.

The chair next went on to the numerous discussion topics that had been prepared for the Panel by DCSE staff, as requested in the July meeting. He noted topic 1) *Background on Establishment of Present Child Support Guidelines*, had already been covered in large part by the previous discussion of Mr. Byrd's presentation.

The chair moved to topic 2) *Self-Support Reserve for Both Parents*.

At this point (approximately 10:15 a.m.), Ms. Atkinson arrived to the meeting via telephone conference.

Chairman Quayle recognized a quorum, and sought approval of the minutes from the 7/11/05 meeting.

Delegate McQuigg requested a correction to the 7/11/05 minutes: on page 3, when discussing interest on delinquent accounts, Delegate McQuigg expressed concern only for those noncustodial parents who were incarcerated, not all noncustodial parents.

The correction was noted and approved, and the minutes were approved by voice vote.

Chairman Quayle asked if there was a motion from the floor to accept Mr. Byrd's inflation-adjusted Guideline table and to recommend to the General Assembly incorporating it into the *Code of Virginia*.

Several members objected to the request as premature, and the request was tabled until the next Panel meeting, in part to allow DCSE staff to try to provide the kind of information Delegate McQuigg seeks regarding this issue.

Mr. Hawkins arrived at approximately 10:30 a.m., bringing the number of Panel members to nine.

The chair then returned to discussion topic 2) *Self Support Reserve for Both Parents*. DCSE policy specialist Anna DeMoss provided a brief overview of the prepared materials, which comprised a description of how several other states incorporate a self-support reserve into their Guidelines, in addition to a critique of a proposal submitted by Panel member Mr. Byrd. Ms. DeMoss' recommendation was for the Panel to consider Mr. Byrd's proposal as the best potential option for Virginia.

This led to debate regarding the main elements of Mr. Byrd's proposal, official poverty income levels for Virginians, and the amount of a minimum child support order.

Following debate, Mr. Diehl made a motion to adopt Mr. Byrd's proposal for a self-support reserve while keeping the minimum child support order at \$65.

The motion was seconded, and after a brief interlude to determine the most up-to-date official poverty income levels for Virginians, the motion to adopt Mr. Byrd's proposal for a self-support reserve while keeping the minimum child support order at \$65 was passed by voice vote. [Mr. Byrd's formal proposal is listed as Addendum #1, and is attached to these minutes.]

The chair proceeded to discussion topic 3) *Deviation Factors From Present Code of Virginia*. DCSE policy specialist Joan Faulkner presented an overview covering recommendations regarding all 18 current deviation factors (*Code* § 20-108.1B). Ms. Faulkner covered only issues where changes were recommended. Additional recommendations for changes came from a variety of sources, including DCSE staff support, Mr. Diehl, Mr. Byrd, Laura Morgan, et al.

The Panel spent considerable time discussing each deviation factor *seriatim*. A total of thirteen changes were individually moved and approved by the Panel for recommendation to the General Assembly. All thirteen motions were approved by voice vote. The sum total of all recommended changes to Virginia's deviation factors is listed as Addendum #2, and is attached to these minutes.

Following the discussion of topic 3, the Panel broke for lunch.

Chairman Quayle left the meeting at lunchtime, and Mr. Crane assumed the Chair. Mr. Crane noted for the record that a quorum still existed with eight members present.

It was observed that the next two discussion items---4) *Imputing Income*, and 5) *Minimum obligation: Practices in Selected States*---were dealt with during the extended discussion on deviation factors.

Mr. Crane proceeded to discussion topic 6) *Shared custody: Comparison of Several States Practices*.

Mr. Diehl, prior to debate on this topic, stated that he would like to see the current statute on this subject, particularly with regard to the 90 day threshold, remain as it is. He cited the *status quo* is working, and there is no groundswell in the courts to tinker with it. Following discussion of a number of contributing factors, Virginia's existing model was cited by Mr. Diehl as a pragmatic compromise that, while not perfect, works well and allows the noncustodial parent regular and frequent contact with his/her children. After further discussion, the Panel concluded not to take action on this issue.

The chair proceeded to discussion topic 7) *Geographic Variations: Impact and Issues*. DCSE policy specialist Shawkat Rana provided an analysis of the pros and cons of considering adjustments in support based on geographic locations. No state was found to provide this kind of adjustment within its boundaries, and very few to provide an adjustment for someone living in another state. Mr. Rana suggested such an adjustment would be difficult to apply.

Delegate McQuigg thought there might be data put out by the Departments of Labor and Commerce that show cost of living factors for different areas of Virginia, and stated she would like to see such data explored further before simply rejecting the idea without some study. In general, the Panel observed that though there are cost of living indexes available, devising an applicable standard for such an adjustment within the context of the existing Guideline would seem problematic. The chair recommended DCSE staff support attempt to provide some cost of living indexes for review at the next Panel meeting, at which point the issue could be revisited.

Mr. Crane then proceeded to discussion topic 8) *Interest Rate Information*. Discussion centered primarily around the issue of forgiving arrears for incarcerated noncustodial parents. It appeared to the Panel as a difficult dilemma: some opposed the notion of rewarding an incarcerated parent for bad behavior, while others held that it was counterproductive to overwhelm a parent with huge arrears as he/she tries to re-enter society and seek employment as a reformed individual.

DCSE policy staff manager Cindy Holdren provided an overview of a Governor's Association project concerning prisoner re-entry. She stated approximately 50% of the states consider incarceration voluntary unemployment, while the other 50% do not, and reduce the order while the individual is incarcerated. She noted there is no standard for states that reduce or modify orders, and there is marked variation among them.


In response to a request from Mr. Byrd, Ms. Holdren reviewed DCSE's recommendation concerning this issue by citing for Panel review a legislative proposal put forth by DCSE last year [final handout and discussion topic 9) *Legislative Proposal on Forgiving Arrears*], which was an outgrowth of the Prisoner Re-entry initiative though with broader application. It was designed, in part, to reward ex-convicts who paid their support consistently for one year after re-entry. The proposal was ultimately not forwarded to the General Assembly for consideration. Ms. Holdren indicated there is great interest in the issue of forgiving arrears at both the state and national levels, and the federal Department of Labor has issued grant proposals to research the topic and devise recommendations. While there is Panel interest along the lines of this issue, it was noted there is no proposal currently before the Panel. Mr. Byrd suggested the Panel wait for the results, along with any recommendations, of the federal efforts now underway. Ms. Atkinson agreed.

No action was taken in this meeting. However, the chair noted this is a stated major interest of Mr. Hawkins, and asked Mr. Hawkins if on behalf of his constituents he may wish to bring forth a proposal. Mr. Hawkins responded that while he had no comprehensive proposal at this time, he would contact several advocacy groups to ascertain interest in drafting a proposal by the next Panel meeting.

Mr. Byrd, as a point of order, moved to allow voting proxies for members who are absent so the Panel could have a quorum without eight members present. Delegate McQuigg, Mr. Diehl, Ms. Atkinson and others objected, stating that two people, in theory, could proxy for everyone, undermining both the intent of the Panel, and the responsibility of the individual members. The motion was not seconded.

Having no other business before the Panel, Mr. Crane declared the meeting adjourned at approximately 1:30 p.m.

Minutes respectfully submitted

A handwritten signature in black ink, appearing to read "Joseph S. Crane". The signature is fluid and cursive, with the first name "Joseph" and last name "Crane" clearly distinguishable.

Joseph S. Crane
DCSE Staff Director

Minutes approved by motion: September 12, 2005